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By: 

Date: February 25, 2002

UNITED STATES IN THE PATENT AND TRADEMARK OFFICE

Applicant : Gerhard Länger  
Applic. No. : 10/036,250  
Filed : October 22, 2001  
Title : Device for Receiving Liquids to which Solids Have Been Added  
and Device for Removing Liquid from Such a Receiving Device

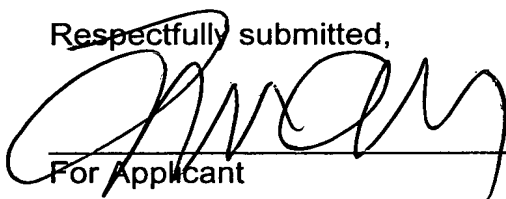
LETTER

Hon. Commissioner of Patents and Trademarks,  
Washington, D. C. 20231

Sir:

Enclosed please find a copy of the English translation of the International Preliminary Examination Report for the above-identified application. Please enter it into the file.

Respectfully submitted,

  
For Applicant

LAURENCE A. GREENBERG  
REG. NO. 29,308

Date: February 25, 2002

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## PCT

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## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

TECHNOLOGY CENTER R3700

(PCT Article 36 and Rule 70)



Applicant's or agent's file reference 99P3269P	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/DE00/01187	International filing date (day/month/year) 14 April 2000 (14.04.00)	Priority date (day/month/year) 22 April 1999 (22.04.99)
International Patent Classification (IPC) or national classification and IPC G21F 9/00		
Applicant FRAMATOME ANP GMBH		

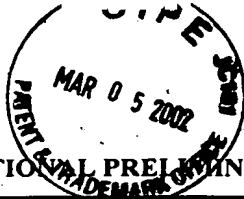
- This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
- This REPORT consists of a total of 6 sheets, including this cover sheet.  
☒ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 4 sheets.

- This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☒ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 20 November 2000 (20.11.00)	Date of completion of this report 25 May 2001 (25.05.2001)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.



## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/DE00/01187

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## I. Basis of the report

## 1. With regard to the elements of the international application:\*

- ☐ the international application as originally filed
- ☒ the description:  
pages \_\_\_\_\_ 2-6 \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_ 1,1a,7 \_\_\_\_\_, filed with the letter of \_\_\_\_\_ 23 April 2001 (23.04.2001)
- ☒ the claims:  
pages \_\_\_\_\_ 7,8 \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, as amended (together with any statement under Article 19  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_ 1-6 \_\_\_\_\_, filed with the letter of \_\_\_\_\_ 23 April 2001 (23.04.2001)
- ☒ the drawings:  
pages \_\_\_\_\_ 1/3-3/3 \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☐ the sequence listing part of the description:  
pages \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

## 2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

## 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/fig \_\_\_\_\_

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

**INTERNATIONAL PRELIMINARY EXAMINATION REPORT**

International application No.

PCT/DE 00/01187

**Supplemental Box**

(To be used when the space in any of the preceding boxes is not sufficient)

Continuation of: IV

With their response of 20.04.2001 to the written report of 06.02.01, the applicant has essentially not changed the content of independent Claim 5 but now has provided the back-reference, optional to date, to present Claims 1 to 4. Moreover, the wording of Claim 5 was in one part. Consequently, the subject matter of the application/claims does not go beyond the content of the application as originally filed and the present claims meet the requirements of PCT Article 34(2)(b).

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/DE 00/01187

## V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

### 1. Statement

Novelty (N)	Claims	1-8	YES
	Claims		NO
Inventive step (IS)	Claims	1-8	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-8	YES
	Claims		NO

### 2. Citations and explanations

This report makes reference to the following documents:

D01: DE-A-31 14 060 and

D02: DE-C-42 01 841, cited in the application and

D1: the article by T.JAEGER, "Entwurf von Speicherbehälter für hochgradig radioactive Abfallstoffe", published in the journal "KERNTECHNIK, vol. 3, no. 7; 1961; pages 307-312; XP002154677 CARL HANSER VERLAG, MUNICH, DE; ISSN: 0932-3902;

D2 FR-A-2 279 205

D3 WO-A-94 09904 and

D4 DE-A-195 12 574.

#### 1. Novelty

##### 1.1 Claims 1 to 4

None of the international search report citations and, in particular, the aforementioned citations D01, D02, D1 to D4 shows the prior art as set out in the preamble of Claim 1 although the subject matter of Claim 1 is part of the general prior art, possibly the technical background.

D1 is a part of the technical background that is summarised in the description on page 1, lines 33 to 37 and that (cf. Figures 2, 3 and 10; page 307,

left-hand column, short abstract; right-hand column, last paragraph to page 308, left-hand column to the second paragraph without the last sentence, paragraph 2 from the right hand column of the page 308 to page 309, left-hand column to the end of the second paragraph and paragraph 5 from page 311 to page 312) discloses a device for receiving liquids displaced by solids with a body open on one side that defines an inner space and which is closed by a steel sheet lining with an opening. Consequently, the subject matter of Claims 1 to 4 is novel (PCT Article 33(2)).

1.2 Independent Claim 5 and its dependent Claims 5 [sic] to 8

The subject matter of independent Claim 5, which relates to a device for removing liquid from a receiving device according to any one of the preceding Claims 1 to 4, is not anticipated by any of the international search report citations, and in particular, D0 to D4.

Consequently, the subject matter of Claims 5 to 8 is novel (PCT Article 33(2)).

2. Inventive step

The technical problem can be considered (cf. the description page 2, lines 13 to 18) to be that of devising a device for removing liquid from a receiving device in which a cover of this device can be attached to form a seal to the waste panel of the receiving device as described in Claim 1.

The subject matter of independent Claims 1 and 5, which seems to be quite easy technically, but it cannot in fact be derived from any of the international search report citations although all

of the documents are assessed/ indicated.

Moreover, the statement of the problem that should be /might seem/ seems obvious from the start to a person skilled in the art is not shown in the international search report citations. According to independent Claim 5 a device for removing liquid from the receiving device according to any one of Claims 1 to 4 has a cover that has for resting on the receiving device on its side facing the receiving device at least one seal for resting on the waste panel of the receiving device.

Such a solution, i.e. an arrangement that combines the features of a device for receiving liquids displaced by solids according to present Claim 1 and a device for removing liquid from such a receiving device according to present Claim 5 is not suggested by the international search report citations, in particular D0-D4.

In fact the combinations of features of independent Claims 1 and 5 cannot be found in the documents:

- D01 (cf. Figure 1; the short abstract; the description from page 19 of the last paragraph to page 2, line 9);
- D02 (cf. the short abstract; the description, page 3, lines 21 to 23);
- D1, which is cited in preceding paragraph 1 of this report and was also mentioned in the written report; with respect to the substance, with reference to the assessment of this document as prior art, the applicant in their response has submitted counter arguments applicable to pages 2 and 3 concerning the objections raised in the report in connection with the appropriateness of this document as prior art;
- D2 (cf. Figures 1, 4; the description, page 1,

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/DE 00/01187

lines 1 to 15; page 4, lines 28 to 30 and 33 to 37);  
-D3 (cf. Figure 1, the short abstract; the  
description, page 6, lines 1 to 13, the last  
paragraph to page 2, line 9) and  
-D4 (cf. Figure 1; the short abstract; the  
description from column 2, line 45 to column 3, line  
10).

These documents which are evaluated as "X" documents  
in the international search report in relation to  
particular claims therefore do not seem to have been  
correctly evaluated.

Consequently, Claims 1 to 8 involve an inventive  
step (PCT Article 33(3)).



# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.  
PCT/DE 00/01187

## VII. Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

The description is not consistent with the claims (PCT Rule 5.1(a)(iii)). In this regard, instead of being drafted as it is as present the description on page 3, line 31 should be changed to "liquid is provided for ... with a".

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